



Reprinted  
April 12, 2001

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## ENGROSSED SENATE BILL No. 486

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DIGEST OF SB 486 (Updated April 11, 2001 6:04 PM - DI 96)

**Citations Affected:** IC 6-1.1; IC 7.1-3; IC 8-17; IC 14-27; IC 25-1; IC 25-21.5; IC 32-1; IC 36-2; IC 36-4; IC 36-7; IC 36-9.

**Synopsis:** Local Government. Allows the plan commission or county executive to request that the county surveyor prepare the county road maps. Prohibits the filing of a petition for establishing a drainage maintenance and repair district after June 30, 2001. Allows a county legislative body to pass an ordinance that prohibits a person from moving or altering a monument that is part of the National Spatial Reference System. Allows the county surveyor to maintain tax maps and plats. Makes changes regarding the following: (1) Clearing ditch obstructions. (2) The drain maintenance fund. Allows the county executive to appoint the county surveyor or the county agricultural educator to an area plan commission. Allows the county drainage board to collect a drain assessment if the unencumbered balance of the fund is equal to or greater than four times the estimated cost of periodic maintenance of the drain if the board meets certain requirements including a public hearing. Makes other changes concerning county  
(Continued next page)

**Effective:** July 1, 2001; January 1, 2002.

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### Wheeler, Landske

(HOUSE SPONSOR — LYTLE)

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January 22, 2001, read first time and referred to Committee on Governmental and Regulatory Affairs.

February 15, 2001, amended, reported favorably — Do Pass.

February 19, 2001, read second time, amended, ordered engrossed.

February 20, 2001, engrossed.

February 26, 2001, read third time, passed. Yeas 50, nays 0.

#### HOUSE ACTION

March 12, 2001, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.

April 5, 2001, amended, reported — Do Pass.

April 11, 2001, read second time, amended, ordered engrossed.

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## Digest Continued

surveyors. Provides that the executive director of the professional licensing agency may review appeals of denials of license renewals, and may disregard certain administrative rules in the review. Provides distance learning methods for continuing education requirements for certain occupations. Requires that three full-time and two part-time land surveyors must be included on the board of registration for land surveyors. Allows the owner of a private drain to request a drainage board to regulate the private drain. Provides that if the assessment of land classified as a filter strip is not satisfactory to the owner, the owner may appeal the assessment to the county property tax assessment board of appeals.

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Reprinted  
April 12, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## ENGROSSED SENATE BILL No. 486

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-1.1-6.7-5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) A person who  
3 wishes to have a parcel of land classified as a filter strip must have the  
4 land assessed by the county assessor of the county in which the land is  
5 located.  
6 (b) If the assessment made by the county assessor is not satisfactory  
7 to the owner, the owner may appeal the assessment to a ~~board~~  
8 ~~consisting of the assessor, auditor, and treasurer~~ **the county property**  
9 **tax assessment board of appeals** of the county in which the land  
10 proposed for classification is located. The decision of the board is final.  
11 SECTION 2. IC 7.1-3-4-3 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. Premises Outside  
13 Corporate Limits. (a) The commission may issue a beer retailer's  
14 permit for premises situated outside the corporate limits of an  
15 incorporated city or town if the premises are within, or in immediate  
16 proximity to, an unincorporated town:  
17 (1) which has been a settlement or a group of residences for more

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than ten (10) years; ~~and~~

(2) to which the inhabitants of the surrounding countryside resort for purchases or public meetings or as a community or neighborhood center; and

(3) which has borne a name and has been known by that name for more than ten (10) years.

**(b) The county surveyor of the county in which the premises is located shall certify the information set forth in subsection (a) to the commission.**

SECTION 3. IC 8-17-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The plan commission or county executive shall direct the county engineer **or may request the county surveyor** to prepare the maps. The **county surveyor or the** county engineer may be compensated in addition to the salary the **surveyor or** engineer receives for preparation of the maps, in an amount to be determined by the plan commission or the county executive, subject to the approval of the county fiscal body.

(b) All expenses incidental to the preparation of the maps, including the **county surveyor's and** county engineer's compensation, shall be paid out of the county general fund.

SECTION 4. IC 14-27-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. **(a) A petition requesting the establishment of a drainage maintenance and repair district under this chapter may not be filed after June 30, 2001.**

**(b)** Twenty percent (20%) of the owners of the real property assessed for a ditch or drain who:

(1) would benefit by the construction of the ditch or drain; and

(2) own not less than twenty percent (20%) of the land in acreage that is assessed for the ditch or drain;

may file, in the office of the clerk of a circuit or superior court having jurisdiction in the county in which is located the greatest acreage of the land as last assessed with benefits for the construction or reconstruction of the ditch, a petition requesting the establishment of a drainage maintenance and repair district.

SECTION 5. IC 25-1-2-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. **(a) For boards administered by the Indiana professional licensing agency established by IC 25-1-6-3, the executive director of the agency may review appeals of denials of license renewals in accordance with IC 25-1-6-5.5.**

**(b) When reviewing an appeal of a denial of a license renewal, the executive director of the agency may disregard any rule**



1 **adopted under IC 4-22-2. However, the executive director may not**  
 2 **disregard any statutory requirement under IC 25.**

3 SECTION 6. IC 25-1-4-3 IS ADDED TO THE INDIANA CODE  
 4 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 5 1, 2001]: Sec. 3. (a) **This section does not apply to continuing**  
 6 **education requirements for physicians, nurses, dentists,**  
 7 **optometrists, podiatrists, chiropractors and psychologists.**

8 (b) **A board or agency regulating a profession or occupation**  
 9 **under this title or under IC 15, IC 16, or IC 22 shall require that at**  
 10 **least fifty percent (50%) of all continuing education requirements**  
 11 **be allowed by distance learning methods.**

12 SECTION 7. IC 25-1-6-3, AS AMENDED BY P.L.82-2000,  
 13 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2001]: Sec. 3. (a) There is established the Indiana professional  
 15 licensing agency. The licensing agency shall perform all administrative  
 16 functions, duties, and responsibilities assigned by law or rule to the  
 17 executive director, secretary, or other statutory administrator of the  
 18 following:

- 19 (1) Indiana board of accountancy (IC 25-2.1-2-1).
- 20 (2) Board of registration for architects and landscape architects
- 21 (IC 25-4-1-2).
- 22 (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- 23 (4) State board of barber examiners (IC 25-7-5-1).
- 24 (5) State boxing commission (IC 25-9-1).
- 25 (6) State board of cosmetology examiners (IC 25-8-3-1).
- 26 (7) State board of funeral and cemetery service (IC 25-15-9).
- 27 (8) State board of registration for professional engineers
- 28 (IC 25-31-1-3).
- 29 (9) Indiana plumbing commission (IC 25-28.5-1-3).
- 30 (10) Indiana real estate commission (IC 25-34.1).
- 31 ~~(11) Until July 1, 1996, Indiana State board of television and~~
- 32 ~~radio service examiners (IC 25-36-1-4).~~
- 33 ~~(12)~~ (11) Real estate appraiser licensure and certification board
- 34 (IC 25-34.1-8-1).
- 35 ~~(13)~~ (12) Private detectives licensing board (IC 25-30-1-5.1).
- 36 ~~(14)~~ (13) State board of registration for land surveyors
- 37 (IC 25-21.5-2-1).

38 (b) **Except for appeals of denials of license renewals to the**  
 39 **executive director authorized by section 5.5 of this chapter,** nothing  
 40 in this chapter may be construed to give the licensing agency policy  
 41 making authority, which remains with each board.

42 SECTION 8. IC 25-1-6-5.5 IS ADDED TO THE INDIANA CODE



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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5.5. (a) A person whose license renewal is denied by a board listed in section 3 of this chapter may file an appeal of the denial with the executive director of the licensing agency.

(b) IC 4-21.5-3-29 and IC 4-21.5-3-30 govern the executive director's review of an appeal filed under subsection (a).

SECTION 9. IC 25-21.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The board consists of seven (7) members appointed by the governor.

(b) One (1) member must be appointed to represent the general public who is:

- (1) a resident of Indiana; and
- (2) not associated with land surveying other than as a consumer.

(c) Six (6) members must be registered land surveyors who actively engage in the practice of land surveying and who each meet the following conditions:

- (1) Is a citizen of the United States.
- (2) Has been a resident of Indiana for at least five (5) years immediately before the member's appointment.
- (3) Is registered in Indiana as a land surveyor.
- (4) Has been engaged in the lawful practice of land surveying for at least eight (8) years.
- (5) Has been in charge of land surveying work or land surveying teaching for at least five (5) years.

(d) Of the registered land surveyors appointed under subsection (c), three (3) must be engaged in the practice of land surveying on a full-time basis, and at least two (2) must be engaged in the practice of land surveying on a part-time basis.

SECTION 10. IC 32-1-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) Purdue University shall establish the office of geodetic adviser for the state.

(b) The geodetic adviser shall be appointed and serve at the discretion of Purdue University. Purdue University shall determine the amount of compensation for the geodetic adviser.

(c) The geodetic adviser is responsible for the implementation of a new system of geodetic control monuments in the form of a high accuracy geodetic reference network that is part of the National Spatial Reference System and that meets the needs of geodetic and geographic information users. The geodetic adviser shall coordinate and assist in following:

- (1) The design of the geodetic reference network.
- (2) The establishment of any geodetic reference monument.



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(3) The maintenance of data base control stations, to the extent that funding is available.

(4) The establishment and implementation of quality control and quality assurance programs for the geodetic reference network.

(5) The assistance and training of users of the geodetic reference network.

(d) The state, a state agency (as defined in IC 4-13-1-1), or a unit (as defined in IC 36-1-2-23) may provide funding from available funds for the activities provided for in this section. A unit (as defined in IC 36-1-2-23) may pay the cost of any geodetic reference monument that is established within the boundaries of that unit.

(e) Money in the county surveyor's corner perpetuation fund collected under IC 36-2-7-10 or IC 36-2-19 may be used for the purposes under this section.

**(f) A county legislative body may adopt an ordinance:**

**(1) prohibiting a person from moving, changing, or otherwise altering a monument that is part of the National Spatial Reference System; and**

**(2) prescribing a monetary penalty for violation of the ordinance.**

**Any money collected shall be deposited in the county surveyor's corner perpetuation fund.**

SECTION 11. IC 36-2-12-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. (a) A person may, for excavation, mineral extraction, or other purposes related to the person's business, temporarily remove a monument marking a corner. The person must notify in writing the county surveyor at least thirty (30) days before removing the monument. The person must replace the monument within a reasonable time at the person's expense under the supervision of the county surveyor or, if the county surveyor is not registered under IC 25-21.5 or IC 25-31, the registered person who is selected under section 11 of this chapter. The surveyor shall file a copy of the notice in the corner record book.

(b) Only a county surveyor or a designee may change the location of any monument. A person who wishes to have the location of a monument changed must make a request to the surveyor in writing and furnish written approval of all landowners whose property is affected by the proposed change. The surveyor may approve, reject, or modify the request and shall file a copy of the notice and the landowners' consents in the corner record book.

(c) When, in the construction or maintenance of a county or municipal road or street, it is necessary to remove or bury a monument

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marking a corner, the owner of the public right-of-way shall notify the county surveyor in writing at least fifteen (15) days before commencing the work.

**(d) A county legislative body may adopt an ordinance:**

**(1) prohibiting a person from moving, changing, or otherwise altering a monument marking a corner without complying with this section; and**

**(2) prescribing a monetary penalty for a violation of the ordinance.**

**Any money collected shall be deposited in the county surveyor's corner perpetuation fund.**

SECTION 12. IC 36-2-12-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 16. The surveyor shall replace worn maps and plats as required by IC 36-2-17-5(c).**

SECTION 13. IC 36-2-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) If it is necessary to preserve the records of:

- (1) the circuit court clerk's office;
- (2) the county auditor's office;
- (3) the county treasurer's office;
- (4) the county recorder's office;
- (5) the county sheriff's office; ~~or~~
- (6) a court of record; **or**
- (7) the county surveyor's office;**

from damage, the county executive shall order the officer in charge of the records to copy them in suitable books procured by him for that purpose. The executive shall specify in its order the particular records or parts of records to be copied.

**(b) If:**

- (1) parts of a county's records have been destroyed;
- (2) the remaining parts of the records have been copied to preserve them from damage; and
- (3) the proper holder of the original documents on which the records were based presents those documents to the officer in charge of the records;

the officer in charge of the records shall use the original documents to complete the records, and, if the original index no longer exists, shall index the completed records.

(c) If a map or plat in the office of the county auditor, ~~or~~ county recorder, **or county surveyor** is so worn or defaced that it is not fit for use, the auditor, ~~or~~ recorder, **or surveyor** shall make an accurate copy





of the legible part of the map or plat. If a part of the map or plat is illegible, the auditor or recorder shall resort to the most accurate sources to complete the copy.

(d) Copies of records made under this section have the same force as the original records. Certified transcripts of copies of records made under subsection (a) of this section have the same force as transcripts of the original records.

(e) Control of the county recorder's records, including copying, storage, and retrieval is the responsibility of the county recorder.

**(f) Control of the county surveyor's records, including copying, storage, and retrieval is the responsibility of the county surveyor.**

SECTION 14. IC 36-4-3-22, AS AMENDED BY P.L.14-2000, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 22. (a) The clerk of the municipality shall do the following:

(1) File each annexation ordinance against which a remonstrance or an appeal has not been filed during the period permitted under this chapter or the certified copy of a judgment ordering an annexation to take place with:

(A) the county auditor of each county in which the annexed territory is located;

(B) the circuit court clerk of each county in which the annexed territory is located;

(C) if a board of registration exists, the registration board of each county in which the annexed territory is located; and

(D) the office of the secretary of state.

(2) Record each annexation ordinance adopted under this chapter in the office of the county recorder of each county in which the annexed territory is located.

(b) The copy must be filed and recorded no later than ninety (90) days after:

(1) the expiration of the period permitted for a remonstrance or appeal; or

(2) the delivery of a certified order under section 15 of this chapter.

(c) Failure to record the annexation ordinance as provided in subsection (a)(2) does not invalidate the ordinance.

(d) The county auditor shall forward a copy of any annexation ordinance filed under this section to the following:

(1) The county highway department of each county in which the lots or lands affected are located.

(2) The county surveyor of each county in which the lots or lands

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affected are located.

(3) Each plan commission, if any, that lost or gained jurisdiction over the annexed territory.

(4) The sheriff of each county in which the lots or lands affected are located.

(5) The township trustee of each township that lost or gained jurisdiction over the annexed territory.

(6) The office of the secretary of state.

(e) The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the annexation ordinance or may charge the clerk a fee for photoreproduction of the ordinance. The county auditor shall notify the office of the secretary of state of the date that the annexation ordinance is effective under this chapter.

(f) The county auditor **or county surveyor** shall, upon determining that an annexation ordinance has become effective under this chapter, indicate the annexation upon the property taxation records maintained in the office of the auditor **or the office of the county surveyor**.

SECTION 15. IC 36-7-4-208, AS AMENDED BY P.L.103-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 208. (a) ADVISORY. The county plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the county executive from its membership.

(2) One (1) member appointed by the county fiscal body from its membership.

(3) The county surveyor or ~~a qualified deputy surveyor appointed~~ **the county surveyor's designee. by the surveyor.**

(4) The county agricultural extension educator.

(5) Five (5) members appointed in accordance with one (1) of the following:

(A) Four (4) citizen members, of whom no more than two (2) may be of the same political party and all four (4) of whom must be residents of unincorporated areas of the county, appointed by the county executive. Also one (1) township trustee, who must be a resident of an unincorporated area of the county, appointed by the county executive upon the recommendation of the township trustees whose townships are within the jurisdiction of the county plan commission.

(B) Five (5) citizen members, of whom not more than three (3) may be of the same political party, and all five (5) of whom must be residents of unincorporated areas of the county appointed by the county executive.

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If a county executive changes the plan commission from having members described in clause (B) to having members described in clause (A), the county executive shall appoint a township trustee to replace the first citizen member whose term expires and who belongs to the same political party as the township trustee. Each member appointed to the commission is entitled to receive compensation for mileage at the same rate and the same compensation for services as a member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor receives for serving on the commission, as set forth in section 222.5 of this chapter.

(b) **ADVISORY.** The metropolitan plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the county legislative body from its membership.

(2) One (1) member appointed by the second class city legislative body from its membership.

(3) Three (3) citizen members who are residents of unincorporated areas of the county, of whom no more than two (2) may be of the same political party, appointed by the county legislative body. One (1) of these members must be actively engaged in farming.

(4) Four (4) citizen members, of whom no more than two (2) may be of the same political party, appointed by the second class city executive. One (1) of these members must be from the metropolitan school authority or community school corporation and a resident of that school district, and the other three (3) members must be residents of the second class city.

(c) **AREA.** When there are six (6) county representatives, they are as follows:

(1) One (1) member appointed by the county executive from its membership.

(2) One (1) member appointed by the county fiscal body from its membership.

(3) The county superintendent of schools, or if that office does not exist, a representative appointed by the school corporation superintendents within the jurisdiction of the area plan commission.

**(4) One (1) of the following appointed by the county executive:**

**(A)** The county agricultural extension educator.

**(B) The county surveyor or the county surveyor's designee.**

(5) One (1) citizen member who is a resident of the

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unincorporated area of the county, appointed by the county executive. ~~and~~

(6) One (1) citizen member who is a resident of the unincorporated area of the county, appointed by the county fiscal body.

**(d) AREA.** When there are five (5) county representatives, they are the representatives listed in subdivisions (3), (4), (5), and (6) of this or **appointed under subsection (c)(3), (c)(4), (c)(5), and (c)(6)** and:

**(1) the county surveyor or the county surveyor's designee if the county executive appoints the county agricultural extension educator under subsection (c)(4); or**

**(2) the county agricultural extension educator if the county executive appoints the county surveyor under subsection (c)(4).**

~~(d)~~ **(e) AREA.** The appointing authority may appoint an alternate member to participate on a commission established under section 204 of this chapter in a hearing or decision if the regular member it has appointed is unavailable. An alternate member shall have all of the powers and duties of a regular member while participating on the commission.

SECTION 16. IC 36-9-27-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. (a) Whenever it appears to the county surveyor that any proceedings instituted under this chapter may affect land in more than one (1) county, he shall immediately forward notification of that fact to the chairman of the board of each county in which the land is located, by certified mail with return receipt requested. The notice must state the number of counties involved and fix a date, hour, and place for a meeting of a joint board. The date for the meeting may not be less than twenty (20) nor more than thirty (30) days after the notice is mailed.

(b) After the notice is given, all proceedings in the matter shall be heard and determined by a board appointed from the membership of the board of each county in which lands that may be affected are located, as follows:

(1) If land in two (2) counties may be affected, the chairman of the board of each county shall appoint two (2) of the members of his board, other than the county surveyor, to serve on the joint board. In addition, a fifth member shall be appointed by the four (4) members of the joint board. The fifth member must reside in a county that is not affected by the drainage problem.

(2) If land in more than two (2) counties may be affected, the chairman of the board of each county shall appoint one (1) of the

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1 members of his board, other than the county surveyor, to serve on  
 2 the joint board. **If, as a result of the appointments, the board**  
 3 **has an even number of members, the members of the joint**  
 4 **board shall appoint an additional member to the joint board.**  
 5 **The additional member must reside in a county that is not**  
 6 **affected by the drainage problem.**

7 (3) The surveyor of the county having the greatest length of drain  
 8 or proposed drain serves as an ex officio member of the joint  
 9 board, and has the same duties, powers, and responsibilities he  
 10 would have if the proposed construction, reconstruction, or  
 11 maintenance affected lands lying solely within one (1) county.

12 (c) A joint board may authorize the employment of one (1) or more  
 13 persons to assist the county surveyor who serves on the board in the  
 14 performance of his duties in connection with the joint board. The joint  
 15 board shall set the rate of compensation for the assistants and authorize  
 16 an advance on the general drain improvement fund of each county in  
 17 proportion to the apparent percentage of the total land area in each  
 18 county to be affected by the drain. The cost of the assistants and the  
 19 advance is a part of the operating expense of the joint board, which  
 20 shall be finally adjusted and allocated as provided in subsection (e).

21 (d) Whenever the county surveyor finds that a joint board should be  
 22 appointed and that:

23 (1) the area of affected land in his county exceeds eighty percent  
 24 (80%) of the total area of land affected by the drain; or

25 (2) ninety percent (90%) or more of the length of the affected  
 26 drain lies within his county;

27 he may request in writing that each board in the lesser affected county  
 28 or counties waive the right to be represented on a joint board and that  
 29 the board of his county be the board for the proceedings. The request  
 30 and all subsequent communications in the proceedings, including  
 31 notice of any benefits or damages to the lands within a lesser affected  
 32 county, shall be forwarded by certified mail with return receipt  
 33 requested to the chairman of the board of each lesser affected county.  
 34 If the surveyor does not receive a negative response to his request from  
 35 the board of a lesser affected county within thirty (30) days, the  
 36 surveyor may request his board to resolve itself as the board for the  
 37 proceedings. The board shall serve notice only on the board of a lesser  
 38 affected county and shall certify to the auditor of that county a single  
 39 claim for all benefits in that county, unless the surveyor or board of that  
 40 county furnishes to the board full and acceptable information  
 41 concerning all individual parcels of affected land in that county,  
 42 including maps.



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(e) If the joint board proceeds with the proposed improvement or maintenance, all operating expense of the joint board, including the compensation of the fifth member appointed under subsection (b)(1) **and the additional member appointed under subsection (b)(2)** shall be:

(1) divided among the counties represented on it in the same proportion that the total land assessment allocated to each county bears to the total cost of the improvement or maintenance; **or**

(2) **paid from the joint drain's maintenance fund after the fund is established and maintenance funds are collected.**

If the joint board does not proceed, all operating expense of the joint board shall be apportioned by the joint board to the counties represented on it as justice requires.

(f) To the extent applicable, a joint board is governed by the provisions of this chapter concerning:

(1) the powers, duties, and procedures of a board that serves one (1) county; and

(2) the rights and remedies of owners affected by the proceedings of a board that serves one (1) county.

SECTION 17. IC 36-9-27-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 18. (a) Whenever all of the owners affected by a **private or** mutual drain request the board in writing to assume jurisdiction over the **private or** mutual drain, the board shall refer the request to the county surveyor, who shall determine whether the **private or** mutual drain meets the standards of design and construction established under section 29 of this chapter.

(b) If the surveyor determines that the **private or** mutual drain meets the standards of design and construction, he shall make a written report of that fact to the board, which shall issue an order granting the request. The drain becomes a regulated drain when the request is granted.

(c) If the surveyor determines that the **private or** mutual drain does not meet the standards of design and construction, he shall make a written report of that fact to the board, which shall deny the request.

SECTION 18. IC 36-9-27-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 43. (a) If in any year a maintenance fund established under section 44 of this chapter has an unencumbered balance equal to or greater than four (4) times the estimated annual cost of periodically maintaining the drain for which the fund was established, the annual assessment for the maintenance of that drain ~~shall~~ **may** be omitted for that year.

(b) **The county drainage board may collect the drain assessment**



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even though the unencumbered balance of the maintenance fund is equal to or greater than four (4) times the estimated annual cost of periodic maintenance of the drain for which the fund was established if the drainage board does the following:

(1) Conducts a public hearing in accordance with section 40 of this chapter.

(2) At the public hearing estimates what the unencumbered balance of the maintenance fund would be, as a multiple of the estimated annual cost of periodic maintenance of the drain, after the collection of the total amount that the board intends to collect in assessments.

However, the annual assessment for the maintenance of the drain shall be omitted if, according to the estimate of the board, the collection of the intended total amount of assessments would increase the unencumbered balance of the maintenance fund to equal or exceed eight (8) times the estimated annual cost of periodic maintenance of the drain for which the fund was established.

SECTION 19. IC 36-9-27-45 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 45. A maintenance fund established under section 44 of this chapter is subject to the use of the board for the necessary or proper repair, ~~or~~ maintenance, **study, or evaluation** of the particular drain or combination of drains, which may be done whenever the board, upon the recommendation of the county surveyor, finds that it is necessary. The payment for all such maintenance work shall be made out of the appropriate maintenance fund. However, if:

(1) a maintenance fund has not been established for the drain or combination of drains; or

(2) a maintenance fund has been established but it is not sufficient to pay for the work;

the general drain improvement fund shall be used to pay the cost of the work or to pay for the deficiency, and the general drain improvement fund shall be reimbursed from the appropriate maintenance fund when it is established or becomes sufficient.

SECTION 20. IC 36-9-27-71, AS AMENDED BY P.L.241-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 71. (a) When, in the construction or reconstruction of a regulated drain, the county surveyor determines that the proposed drain will cross a public highway or the right-of-way of a railroad company at a point where:

(1) there is no crossing; or



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(2) the crossing will not adequately handle or will be endangered by the flow of water from the drain when completed; the county surveyor shall include in the plans the grade and cross section requirements for a new crossing, or the requirements for altering, enlarging, repairing, or replacing the crossing. The surveyor shall mail a copy of the requirements addressed to the owner of the highway or right-of-way.

(b) When requested by the owner of the highway or right-of-way, the county surveyor shall meet with the owner at a time and place to be fixed by the surveyor. The surveyor shall hear objections to the requirements, and may then change the requirements as justice may require.

(c) When the board finds that in the construction, reconstruction, or maintenance of a regulated drain it is necessary to:

(1) alter, enlarge, repair, or replace a crossing; or

(2) construct a new crossing where none existed before;

the cost of the work on the crossing shall be paid by the owner of the public highway. This cost may not be considered by the county surveyor or by the board in determining the cost of the work on the drain or in assessing benefits and damages. However, if it is necessary for the owner of a public highway to construct a new crossing because of a cut-off for the purpose of shortening or straightening a regulated drain, the owner of the public highway shall pay one-half (1/2) of the cost of the new crossing, and the remainder shall be included in the cost of the work on the drain.

(d) A railroad company with a right-of-way that is:

(1) crossed by the construction of a regulated drain; or

(2) affected by the altering or enlarging of a crossing;

shall pay one-half (1/2) of the cost of the work on the crossing and the remainder shall be included in the cost of the work on the drain.

(e) If the county surveyor is registered under IC 25-31, the county surveyor must review and approve or disapprove the plans and hydraulic data for an existing crossing that is to be altered, enlarged, repaired, or replaced, or the construction of a new crossing for a public highway or the right-of-way of a railroad company. The county surveyor shall disapprove the plans and hydraulic data if they do not show that the structure will meet structural and hydraulic requirements that will permit the drain to function properly.

(f) If the county surveyor is registered under IC 25-21.5, the county surveyor must review and approve or disapprove the plans and hydraulic data for an existing crossing that is to be altered, enlarged, repaired, or replaced or the construction of a new crossing for a public

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highway or the right-of-way of a railroad company. The county surveyor shall disapprove the plans and hydraulic data if they do not show that the structure will meet hydraulic requirements that will permit the drain to function properly.

(g) Approval of the plans and hydraulic data by a person who is registered under IC 25-21.5 or IC 25-31 is required before the work can take place. However, if the county surveyor is not registered under IC 25-21.5 or IC 25-31, a registered person who is selected under section 30 of this chapter shall:

- (1) review and approve or disapprove the plans and specifications described in this subsection;
- (2) inform the county surveyor in writing of the approval or disapproval; and
- (3) submit all plans, specifications, and hydraulic data along with the approval or disapproval.

SECTION 21. IC 36-9-27-72 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 72. (a) When, in the reconstruction or periodic maintenance of a regulated drain, the county surveyor determines that a private crossing will not adequately handle the flow of water from the drain or will be endangered by such flow, he shall in his plans call for the removal of the crossing.

(b) The replacement of a private crossing, when necessary, may be accomplished as a part of the work of the reconstruction or maintenance. The estimate by the county surveyor of the cost for the replacement shall be assessed against the land that would otherwise be deprived of ingress and egress. However, when a private crossing has been lawfully established and maintained, the board may assess any part of the cost of its replacement against all affected lands.

(c) A private crossing, control dam, or other permanent structure may not be placed over or through an open drain unless the plans and specifications for the structure are first approved by the county surveyor. The surveyor shall disapprove the plans and specifications if they do not show that the structure will meet ~~structural~~ and hydraulic requirements that will permit the drain to function properly.

(d) All maintenance of a private crossing or of a private structure within the drain, whether privately constructed or constructed as a part of work on a drain under this chapter, is the responsibility of the owners of land served by the private crossing or structure. The owners are directly responsible for any obstruction or damage to the drain that results from the existence of the private crossing or structure, notwithstanding any other provisions of this chapter.

SECTION 22. IC 36-9-27.4-3 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. As used in this chapter, "natural surface watercourse" means an area of the surface of the ground over which water from falling rain or melting snow occasionally and temporarily flows in a definable direction **and channel.**

SECTION 23. IC 36-9-27.4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) If a petition filed under this chapter alleges the obstruction of:

- (1) a drain; or
- (2) a natural surface watercourse;

the county surveyor of the county in which the obstruction is alleged to exist shall promptly investigate whether the obstruction exists.

(b) If the county surveyor, upon investigation, finds an existing obstruction in a drain or natural surface watercourse in the location alleged in the petition, the county surveyor shall report the existence of the obstruction to the drainage board.

(c) Upon receiving a report from the county surveyor under subsection (b), the drainage board shall:

- (1) set a date for a hearing on the petition; and
- (2) serve notice of the hearing on each owner of the land on which the obstruction exists who can be identified in the records of the county recorder.

(d) The hearing must be held at least thirty (30) days but less than ninety (90) days after the date of the filing of the petition.

(e) Notice of a hearing must be **served on mailed to** each respondent **with return receipt requested. in the manner prescribed in:**

- (1) ~~Rule 4.1 of the Indiana Rules of Trial Procedure, in the case of a respondent who is an individual; or~~
- (2) ~~Rule 4.6 of the Indiana Rules of Trial Procedure, in the case of a respondent that is an organization.~~

SECTION 24. IC 36-9-27.4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 19. (a) If:

- (1) a petition filed under this chapter concerns a drain; and
- (2) the drainage board:
  - (A) finds for the petitioner under section 14(a) of this chapter; but
  - (B) does not find under section 15 of this chapter that the obstruction of the drain was created intentionally by any of the respondents;

the drainage board shall enter an order under subsection (b).

(b) Upon a determination made under subsection (a), the drainage



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- 1 board shall enter an order:
- 2 (1) authorizing the petitioner to remove the obstruction;
- 3 (2) authorizing the respondents to remove the obstruction;
- 4 (3) directing the county surveyor to remove the obstruction; or
- 5 (4) directing that the obstruction be removed through the joint
- 6 efforts of at least two (2) of the persons referred to in this
- 7 subsection.
- 8 (c) If an order is issued under subsection (b), the costs of removing
- 9 the obstruction must be borne by the owners of all the tracts of land
- 10 that are benefited by the drain. The order of the board must do the
- 11 following:
- 12 (1) Identify all tracts of land that are benefited by the drain.
- 13 (2) Identify the owners of the tracts of land referred to in
- 14 subdivision (1):
- 15 (A) who are known to the drainage board; or
- 16 (B) whose identity can be determined through the records of
- 17 the county ~~recorder~~ **auditor**.
- 18 (3) Apportion the costs of removing the obstruction among the
- 19 tracts of land that are benefited by the drain, assigning to each
- 20 tract a certain percentage of the total costs.
- 21 (4) Order the owners of each tract of land referred to in
- 22 subdivision (1) to pay an amount equal to the product of the total
- 23 costs of removing the obstruction multiplied by the percentage
- 24 assigned to the tract under subdivision (3).
- 25 (d) The percentage of the total costs assigned to a tract under
- 26 subsection (c)(3) must correspond to the ratio of the total length of the
- 27 drain to the length of the particular segment of the drain that benefits
- 28 the tract.

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SENATE MOTION

Mr. President: I move that Senator Landske be added as second author of Senate Bill 486.

WHEELER

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred Senate Bill No. 486, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 19, delete "36-2-7-10(b)" and insert "~~36-2-7-10(b)~~".

Page 4, line 15, delete "IC 36-2-7-10(d)(3)" and insert "**IC 36-2-7-10(c)(3)**".

Page 5, line 2, delete "IC 36-2-7-10(d)(3)" and insert "**IC 36-2-7-10(c)(3)**".

Page 5, line 42, delete "IC 36-2-7-10(d)(1) and" and insert "**IC 36-2-7-10(c)(1) and IC 36-2-7-10(c)(2)**".

Page 6, line 1, delete "IC 36-2-7-10(d)(2)".

Page 6, line 42, delete "36-2-7-10(b)(1)" and insert "~~36-2-7-10(b)(1)~~".

Page 7, line 1, delete "IC 36-2-7-10(d)(1) and IC 36-2-7-10(d)(2)" and insert "**IC 36-2-7-10(c)(1) and IC 36-2-7-10(c)(2)**".

Page 7, line 18, delete "36-2-7-10(b)(1)" and insert "~~36-2-7-10(b)(1)~~".

Page 7, line 19, delete IC 36-2-7-10(d)(1) and IC 36-2-7-10(d)(2)" and insert "**IC 36-2-7-10(c)(1) and IC 36-2-7-10(c)(2)**".

Page 7, delete lines 25 through 26.

Page 7, line 27, delete "(c)" and insert "**(b)**".

Page 7, line 33, delete "(d)" and insert "**(c)**".

Page 8, line 15, strike "deed" and insert "**conveyance of real estate title**".

Page 8, line 16, strike "deeds," and insert "**conveyances of real estate title,**".

Page 8, line 30, delete "(e)" and insert "**(d)**".

Page 8, line 32, delete "(d)(5), (d)(8), (d)(9), and (d)(10)" and insert "**(c)(5), (c)(8), (c)(9), and (c)(10)**".

Page 8, line 38, delete "(f)" and insert "**(e)**".

Page 8, line 39, delete "(d)" and insert "**(c)**".

Page 8, line 41, delete "(g)" and insert "**(f)**".

Page 9, line 10, reset in roman "(g)".

Page 9, line 10, delete "(h)".

Page 10, line 41, delete "IC 36-2-7-10(e)" and insert "**IC 36-2-7-10(d)**".

Page 16, delete lines 11 through 18.

Page 18, line 27, delete "If in any year a maintenance" and insert

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**"The county drainage board may collect the drain assessment even though the unencumbered balance of the maintenance fund is equal to or greater than four (4) times the estimated annual cost of periodic maintenance of the drain for which the fund was established if the drainage board does the following:**

- (1) Conducts a public hearing in accordance with section 40 of this chapter.**
- (2) At the public hearing estimates what the unencumbered balance of the maintenance fund would be, as a multiple of the estimated annual cost of periodic maintenance of the drain, after the collection of the total amount that the board intends to collect in assessments.**

**However, the annual assessment for the maintenance of the drain shall be omitted if, according to the estimate of the board, the collection of the intended total amount of assessments would increase the unencumbered balance of the maintenance fund to equal or exceed eight (8) times the estimated annual cost of periodic maintenance of the drain for which the fund was established."**

Page 18, delete lines 28 through 32.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 486 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 9, Nays 0.

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## SENATE MOTION

Mr. President: I move that Senate Bill 486 be amended to read as follows:

Page 2, line 20, delete "IC 36-2-7-10(d)" and insert **"IC 36-2-7-10(c)"**.

Page 7, line 19, delete "IC 36-2-7-10(d)(1) and IC 36-2-7-10(d)(2)" and insert **"IC 36-2-7-10(c)(1) and IC 36-2-7-10(c)(2)"**.

Page 7, line 23, delete " "deed" means" and insert " **"record" or "recording" includes the functions of recording, filing, and filing for record."**

Page 7, delete line 24.

(Reference is to SB 486 as printed February 16, 2001.)

WHEELER

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred Senate Bill 486, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert the following:

"SECTION 1. IC 6-1.1-6.7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) A person who wishes to have a parcel of land classified as a filter strip must have the land assessed by the county assessor of the county in which the land is located.

(b) If the assessment made by the county assessor is not satisfactory to the owner, the owner may appeal the assessment to ~~a board consisting of the assessor, auditor, and treasurer~~ **the county property tax assessment board of appeals** of the county in which the land proposed for classification is located. The decision of the board is final."

Page 2, line 2, delete "county surveyor or the".

Page 2, line 3, after "engineer" insert **"or may request the county surveyor"**.

Page 2, delete lines 11 through 25.

Page 2, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 5. IC 25-1-2-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 9. For boards administered by the Indiana professional licensing agency established by IC 25-1-6-3, the executive director of the agency may review appeals of denials of license renewals in accordance with IC 25-1-6-5.5.**

SECTION 6. IC 25-1-4-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 3. (a) This section does not apply to continuing education requirements for physicians, nurses, and dentists.**

**(b) A board or agency regulating a profession or occupation under this title or under IC 15, IC 16, or IC 22 shall require that at least fifty percent (50%) of all continuing education requirements be allowed by distance learning methods.**

SECTION 7. IC 25-1-6-3, AS AMENDED BY P.L.82-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) There is established the Indiana professional licensing agency. The licensing agency shall perform all administrative

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functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) State board of cosmetology examiners (IC 25-8-3-1).
- (7) State board of funeral and cemetery service (IC 25-15-9).
- (8) State board of registration for professional engineers (IC 25-31-1-3).
- (9) Indiana plumbing commission (IC 25-28.5-1-3).
- (10) Indiana real estate commission (IC 25-34.1).
- ~~(11) Until July 1, 1996, Indiana State board of television and radio service examiners (IC 25-36-1-4).~~
- ~~(12)~~ **(11)** Real estate appraiser licensure and certification board (IC 25-34.1-8-1).
- ~~(13)~~ **(12)** Private detectives licensing board (IC 25-30-1-5.1).
- ~~(14)~~ **(13)** State board of registration for land surveyors (IC 25-21.5-2-1).

**(b) Except for appeals of denials of license renewals to the executive director authorized by section 5.5 of this chapter, nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.**

SECTION 8. IC 25-1-6-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 5.5. (a) A person whose license renewal is denied by a board listed in section 3 of this chapter may file an appeal of the denial with the executive director of the licensing agency.**

**(b) IC 4-21.5-3-29 and IC 4-21.5-3-30 govern the executive director's review of an appeal filed under subsection (a).**

SECTION 9. IC 25-21.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 2. (a) The board consists of seven (7) members appointed by the governor.**

**(b) One (1) member must be appointed to represent the general public who is:**

- (1) a resident of Indiana; and**
- (2) not associated with land surveying other than as a consumer.**

**(c) Six (6) members must be registered land surveyors who actively engage in the practice of land surveying and who each meet the**



following conditions:

- (1) Is a citizen of the United States.
- (2) Has been a resident of Indiana for at least five (5) years immediately before the member's appointment.
- (3) Is registered in Indiana as a land surveyor.
- (4) Has been engaged in the lawful practice of land surveying for at least eight (8) years.
- (5) Has been in charge of land surveying work or land surveying teaching for at least five (5) years.

**(d) Of the registered land surveyors appointed under subsection (c), three (3) must be engaged in the practice of land surveying on a full-time basis, and at least two (2) must be engaged in the practice of land surveying on a part-time basis."**

Page 3, delete lines 34 through 42.

Delete pages 4 through 10.

Page 11, delete line 1.

Page 14, line 5, strike "a qualified deputy surveyor appointed" and insert "**the county surveyor's designee**".

Page 14, line 6, strike "by the surveyor".

Page 15, line 20, delete "designee" and insert "**designee**".

Page 15, delete line 21.

Page 15, line 31, delete "who".

Page 15, line 32, delete "is a qualified deputy surveyor".

Page 16, delete lines 2 through 10.

Page 18, between lines 9 and 10 begin a new paragraph and insert:

"SECTION 20. IC 36-9-27-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 18. (a) Whenever all of the owners affected by a **private or** mutual drain request the board in writing to assume jurisdiction over the **private or** mutual drain, the board shall refer the request to the county surveyor, who shall determine whether the **private or** mutual drain meets the standards of design and construction established under section 29 of this chapter.

(b) If the surveyor determines that the **private or** mutual drain meets the standards of design and construction, he shall make a written report of that fact to the board, which shall issue an order granting the request. The drain becomes a regulated drain when the request is granted.

(c) If the surveyor determines that the **private or** mutual drain does not meet the standards of design and construction, he shall make a written report of that fact to the board, which shall deny the request."

Page 18, line 11, after "Sec. 43." insert "**(a)**".

Page 18, delete lines 17 through 18.

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Page 18, line 19, delete "[EFFECTIVE JULY 1, 2001]: Sec. 43.5.",  
begin a new paragraph and insert "(b)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 486 as reprinted February 20, 2001.)

LYTLE, Chair

Committee Vote: yeas 10, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 486 be amended to read as follows:

Page 3, line 2, after "physicians, nurses and dentists" insert **"optometrists, chiropractors and psychologists"**.

Renumber all SECTIONS consecutively.

(Reference is to ESB 486 as printed April 6, 2001.)

LYTLE

HOUSE MOTION

Mr. Speaker: I move that House Bill 486 be amended to read as follows:

Page 3, line 2, after "physicians, nurses and dentists" insert **"optometrists, podiatrists and chiropractors"**.

Renumber all SECTIONS consecutively.

(Reference is to ESB 486 as printed April 6, 2001.)

LYTLE

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 486 be amended to read as follows:

Page 2, line 37, after "9." insert **"(a)"**.

Page 2, between lines 40 and 41, begin a new paragraph and insert:

**"(b) When reviewing an appeal of a denial of a license renewal, the executive director of the agency may disregard any rule adopted under IC 4-22-2. However, the executive director may not disregard any statutory requirement under IC 25."**

(Reference is to ESB 486 as printed April 6, 2001.)

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